

From: joe3@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/23/02 3:34am
Subject: Microsoft Settlement

Dear Renata Hesse:

I am writing to strongly protest the Proposed Final Judgement in the Microsoft antitrust suit. As written, it fails to prohibit significantly anti-competitive practices of which Microsoft has been proven guilty.

As an example of how I, as a consumer, am directly harmed by Microsoft's anti-competitive practices, and how these practices are not restrained by the Proposed Final Judgement, I offer the following fact: I do not use Windows. I choose, instead, to use a competing operating system, Linux, that also uses the popular x86 hardware platform on which Microsoft's Windows operating system was found to have a monopoly.

I have no interest in purchasing a computer with Windows installed; instead, I would rather purchase a computer with Linux, and only Linux, installed. I do not want to pay for what I will not use. And yet, according to the Proposed Final Judgement, if the OEM with whom I wish to do business tries to sell me such a computer, Microsoft is fully entitled to retaliate against that OEM. Section III.A.2 prohibits retaliation against an OEM for selling computers that (a) have both Windows and another OS installed, or (b) "will boot with more than one Operating System", but does not prohibit retaliation for selling a computer that sells a computer with a single, non-Windows OS installed.

Microsoft can raise the prices on every copy of Windows the OEM does install, until the OEM is effectively paying the costs of installing Windows on every machine they sell, whether or not Windows is actually installed! (In effect, this grants Microsoft permission to resume selling the per-processor licenses that were expressly prohibited by the 1994 consent decree in Microsoft's earlier antitrust case.) Far from inhibiting Microsoft's abuse of its monopoly position, the Proposed Final Judgement allows Microsoft to punish OEMs that attempt to provide their customers a choice between Windows and its competitors! Even if an OEM should choose for any reason choose to still offer both Windows computers and non-Windows computers, they would have a financial penalty imposed upon them which they would have no choice but to pass on to the consumer.

With loopholes of this magnitude in the proposed settlement, I do not feel that it adequately represents my interests as a consumer or encourages free market competition.

Sincerely,

Joseph Crowley III
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